

Our File No. 202646

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

NICOLE BLACKMON

Plaintiff

V.

ARTUR MYSHYAKOV and
YRC INC.,

Defendants

• • • • •

Docket No.

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY:

Defendants, Artur Myshayakov and YRC Inc., by and through their attorneys, Salmon Ricchezza Singer & Turchi, LLP, respectfully avers as follows:

1. At all material times, Plaintiff, Nicole Blackmon is a citizen of the State of New Jersey with an address of 72 Mariners Court, Plainfield, New Jersey. (See Plaintiff’s Complaint, a copy of which is attached as Exhibit “A.”)
2. At all material times, defendant, Artur Myshyakov is a citizen of the State of New York with an address of 6435 Yellowstone Rd., Forest Hills, New York.
3. At all material times, defendant, YRC Inc., is a corporation organized under the laws of the State of Delaware with its principal place of business in the State of Kansas at 10990 Roe Avenue, Overland Park, Kansas.

4. Plaintiff initiated this action by Complaint filed in the Superior Court of New Jersey, Union County Law Division on or about June 14, 2022. (See Plaintiff's Complaint, attached as Exhibit "A.")

5. Plaintiff's Complaint alleged "severe bodily injury and mental anguish;" and "diverse sums of money for medical bills and treatment, was incapacitated and unable to perform her normal occupation, daily duties and social endeavors and in the future will also be damaged", but contains no *ad damnum* clause specifying an amount of damages claimed. (See Exhibit "A" at Count I, ¶ 4-5.)

6. Therefore, the pled allegations in Plaintiff's Complaint did not establish an amount in controversy of \$75,000 or more by a preponderance of evidence within the meaning of 28 U.S.C. § 1332. See Penn v. Wal-Mart Stores, Inc., 116 F. Supp. 2d 557, 567-568 (D.N.J. 2000) (generalized allegations of damages and injury are insufficient to establish damages meeting the federal jurisdictional threshold by a preponderance of evidence.)

7. Accordingly, on July 12, 2022, Defendants filed an Answer to Plaintiff's Complaint in the Superior Court of New Jersey, Union County, including a N.J. Court R. 4:5-2 Demand for Statement of Damages requiring Plaintiff to certify the amount of damages she is claiming against defendants. (See Defendants' Answer to Plaintiffs' Complaint, attached as Exhibit "B," at p. 4.)

8. On August 26, 2022, Plaintiff's counsel served her certified Statement of Damages claiming damages of \$500,000. (See Plaintiff's Statement of Damages, attached as Exhibit "C.")

9. Therefore, it has now been established by a preponderance of competent, credible evidence that this case involves an amount in controversy in excess of the federal jurisdictional threshold of \$75,000.

10. This petition for removal is timely as filed within one year of Plaintiff's first pleading and within 30 days of the removing defendants' receipt of Plaintiff's Statement of Damages constituting an "other paper" from which it could first be ascertained that the case was removeable. See 28 U.S.C. 1446(b)(3), (c.)

11. Diversity of citizenship within the meaning of 28 U.S.C. § 1332 exists between the Plaintiff and Defendants because:

- a. Plaintiff was and is a citizen of the State of New Jersey;
- b. Defendant, Artur Myshyakov was and is a citizen of the State of New York;
- c. Defendant, YRC Inc. is a corporation organized under the laws of the State of Delaware and its principal place of business is in the State of Kansas.

12. Diversity of citizenship existed at the time the action sought to be removed was commenced and continues through the time of filing this notice, such that defendants are entitled to removal pursuant to 28 U.S.C. § 1441, as amended, and 28 U.S.C. § 1446.

WHEREFORE, defendants, Artur Myshyakov and YRC Inc., herein pray that the above-captioned action now pending in the Superior Court of New Jersey, Law Division, Union County, be removed therefrom to this Honorable Court.

SALMON RICCHEZZA SINGER & TURCHI, LLP

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